



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2011-0494; FRL – 9808-2]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to Control of Air Pollution from Nitrogen Compounds from Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to approve revisions to the Texas State Implementation Plan (SIP), 30 TAC, Chapter 117 Control of Air Pollution from Nitrogen Compounds. These revisions concern two separate actions. First, we are approving revisions to Texas SIP, Chapter 117 emissions specifications for lean burn engines fired on landfill or other biogas at minor sources of Nitrogen Oxides (NO_x). Second, we are approving revisions to Texas SIP, Chapter 117 to include low temperature drying and curing ovens used in wet-laid non-woven fiber mat manufacturing operations when nitrogen containing resins or other additives are used. These two actions affect NO_x sources operating in the Dallas Fort-Worth (DFW) 1997 8-hour ozone nonattainment area. The EPA is approving these two actions pursuant to section 110 of the Federal Clean Air Act (CAA, Act).

DATES: This direct final rule will be effective **[Insert date 60 days from date of publication in the Federal Register]** without further notice unless EPA receives adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No EPA-R06-OAR-2011-0494, by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>.
- Follow the online instructions for submitting comments.
- EPA Region 6 “Contact Us” Web site: <http://epa.gov/region6/r6coment.htm>. Please click on “6PD (Multimedia)” and select “Air” before submitting comments.
- E-mail: Mr. Guy Donaldson at donaldson.guy@epa.gov. Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.
- Mail: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.
- Hand or Courier Delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket No. EPA-R06-OAR-2011-0494. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working

days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection during official business hours, by appointment, at the Texas Commission on Environmental Quality (TCEQ), Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-6691; fax number 214-665-7263; e-mail address shar.alan@epa.gov.

SUPPLEMENTARY INFORMATION

Throughout this document “we”, “us”, or “our” refer to EPA.

Outline

I. Background

A. What Actions Are We Taking?

B. What Is EPA’s Evaluation of These Revisions?

II. Final Action

III. Statutory and Executive Order Reviews

I. Background

A. What Actions Are We Taking?

1. Lean Burn Engines

We previously approved the revisions to 30 TAC, Chapter 117 Control of Air Pollution from Nitrogen Compounds on December 3, 2008 at 73 FR 73562. We received a SIP submittal package, with a letter dated May 18, 2011, from TCEQ requesting approval of a revision to 30 TAC, Chapter 117, Subchapter D, Combustion Control at Minor Sources in Ozone Nonattainment Areas, Division 2, Dallas Fort-Worth Eight-Hour Ozone Nonattainment Area Minor Sources. This revision specifically concerns section 117.2110(a)(1)(B)(ii)(I). The adopted revisions expand the emission specification for lean-burn engines fired on landfill gas to include lean-burn engines fired on biogas at minor sources of nitrogen oxides (NO_x) in the DFW 1997 eight-hour ozone nonattainment area. The adopted rule revision will require owners or operators of stationary gas-fired, lean-burn internal combustion engines fired on biogas fuels other than landfill gas that are installed, modified, reconstructed, or relocated on or after June 1, 2007, to comply with a NO_x emission limit of 0.60 grams per horsepower-hour (g/hp-hr). The State's adopted rule was published on May 6, 2011 at 36 Texas Register 2855. By adopting the emission specification of 0.60 g/hp-hr in section 117.2110(a)(1)(B)(ii)(I) for the DFW area, the rule will become consistent with the emissions specification for this category of engines operating in the Houston-Galveston-Brazoria (HGB) 1997 8-hour ozone nonattainment area. The revision will provide for consistency and operational flexibility for this category of engines operating in the DFW 1997 eight-hour ozone nonattainment area. We are approving these SIP revisions pursuant to section 110 of the CAA. For more information see section 1 of the Technical Support Document (TSD) we have prepared in conjunction with this rulemaking action.

2. Low Temperature Drying and Curing Ovens

We previously approved the revisions to 30 TAC, Chapter 117 Control of Air Pollution from Nitrogen Compounds on December 3, 2008 at 73 FR 73562. We received a SIP submittal package, with a letter dated February 2, 2010, from TCEQ requesting approval of a revision to 30 TAC, Chapter 117, Subchapter B, Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas; Division 4, Dallas Fort-Worth Eight-Hour Ozone Nonattainment Area Major Sources. This revision specifically concerns section 117.403(a)(12). The state adopted a rule revision to Chapter 117 to expand the existing exemption from the current SIP-approved rule to include low-temperature drying ovens and curing ovens used in wet-laid, non-woven fiber mat manufacturing as well as low-temperature drying ovens used in mineral wool-type fiberglass manufacturing. The rule revision will amend the rule language from "nitrogen-bound chemical additives" to "nitrogen-containing resins, or other additives." The State's adopted rule was published on January 29, 2010 at 35 Texas Register 649.

This revision to section 117.403(a)(12) will clarify that nitrogen-containing resins would qualify for an exemption because resins might not always be considered an additive. The revision will provide for operational flexibility and clarification to the rule language for this category of ovens operating in the DFW 1997 eight-hour ozone nonattainment area. We are approving these SIP revisions pursuant to section 110 of the CAA. See section 2 of the TSD we have prepared in conjunction with this rulemaking action for more information.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate

document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on **[Insert date 60 days from date of publication in the Federal Register]** without further notice unless we receive relevant adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**. If we receive relevant adverse comments, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. We will then address all public comments in a subsequent final rule based on the proposed rule. However, we will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive an adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

B. What is EPA's Evaluation of These Revisions?

1. Lean Burn Engines

The existing NO_x emission specification in section 117.2110(a)(1)(B)(ii)(II) for gas-fired lean-burn engines using gaseous fuels other than landfill gas that are installed, modified, reconstructed, or relocated on or after June 1, 2007, is 0.50 g/hp-hr. Landfill gas and other biogas are produced from anaerobic digestion or decomposition of organic matter and have similar fuel and combustion characteristics. Both landfill gas and other biogas, at times, contain contaminants such as sulfur, chlorine, and silicon. Therefore, engines fired on landfill gas and other biogas can have technological feasibility issues with regard to the installation or employment of a NO_x control catalyst due to the presence of such substances which can

contribute to catalyst failure or deactivation in a matter of hours or days. The technological feasibility issues related to the installation and operation of a NO_x control catalyst is the basis for the 0.60 g/hp-hr emission standard in the current SIP-approved rule and the justification for the proposed expansion of the existing emission specification to include lean-burn engines fired on biogas at minor sources of NO_x in the DFW 1997 8-hour ozone nonattainment area. It is anticipated that the change in emission specification will potentially result in 0.02 tons per day (tpd) in NO_x emissions from these engines firing biogas. As stated above, by adopting the emission specification of 0.60 g/hp-hr in section 117.2110(a)(1)(B)(ii)(I) for the DFW area, the rule will become consistent with the emissions specification for this category of engines operating in the HGB 1997 8-hour ozone nonattainment area. Furthermore, a larger amount of NO_x would have resulted, if a likely alternative such as routing the gas to a flare is utilized. Given that a) the biogas will be used beneficially, b) there are technical challenges associated with the use of a post combustion control device for these engines, and c) only a small amount of emissions change (which is to be replaced with the surplus NO_x reductions from the fleet turnover) will be at issue; this rule revision is acceptable. For this reason, we believe this rule revision is not in conflict with section 110(l) of the Act, and will not interfere with the attainment or maintenance of the NAAQS. We have evaluated the State's submittal and have determined that the rule revision meets the applicable requirements of the CAA and EPA air quality regulations. See our section 1 of the TSD. The originally approved Chapter 117 NO_x emissions control requirements were part of the DFW 8-hour ozone NAAQS attainment demonstration plan; therefore, any NO_x increase, including those resulting from adoption of this particular

revision to section 117.2110(a)(1)(B)(ii)(II), should be accounted for and reflected in modeling of future DFW attainment demonstration plan submittals to EPA.

2. Low Temperature Drying and Curing Ovens

On December 3, 2008 at 73 FR 73562, we approved a revision to Chapter 117, Subchapter B, Division 4, Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources, with new emission control requirements for major Industrial, Commercial, or Institutional (ICI) sources of NO_x in the DFW 1997 8-hour ozone nonattainment area. That revision to Chapter 117, Subchapter B, Division 4 requires owners or operators of major ICI sources of NO_x in the DFW 1997 eight-hour ozone nonattainment area to reduce NO_x emissions from a wide variety of stationary sources including curing and drying ovens used in mineral wool-type fiberglass manufacturing operations. The December 3, 2008 rulemaking action approved into the Texas SIP included an addition of a new provision under section 117.403(a)(12) to exempt curing ovens used in mineral wool-type fiberglass manufacturing in which nitrogen-bound chemical additives are used due to technical feasibility issues associated with controlling NO_x emissions from curing ovens of this specific operation. TCEQ was petitioned by a fiberglass manufacturer stating that addition of nitrogen-bound chemical additives in its operation contributes to the creation of non-combustion-related thermal NO_x that cannot be controlled using the emissions control techniques the State has identified as appropriate for curing ovens utilized in mineral wool-type fiberglass manufacturing operations. The amount of NO_x emitted from curing ovens of this type is estimated to be a small contribution to the total NO_x emissions from this industry. As a result of granting the petition, approximately 0.1 tpd of NO_x emission reductions will need to be replaced in the 2007 DFW 1997 8-hour

ozone attainment demonstration SIP. TCEQ is of the position that the 0.1 tpd of NO_x reduction can be substituted with 0.1 tpd of reductions in NO_x from the surplus fleet turnover. See section 2 of the TSD. We have reviewed State's submittal and agree with their reasoning to grant the petition, and thus revising section 117.403(a)(12). We also believe that by substituting the 0.1 tpd of NO_x from the surplus fleet turnover reductions the State has adequately demonstrated "non-interference" with the maintenance and attainment of NAAQS under section 110(l) of the Act. Therefore, the State's submittal meets the applicable requirements of the CAA and EPA air quality regulations.

II. Final Action

Today we are approving two separate actions. First, we are approving revisions to Texas SIP, Chapter 117 emissions specifications for lean burn engines fired on landfill or other biogas at minor sources of NO_x. Second, we are approving revisions to Texas SIP, Chapter 117 to include low temperature drying and curing ovens used in wet-laid non-woven fiber mat manufacturing and wet-laid, non-woven operations when nitrogen containing resins or other additives are used. Both of these actions affect NO_x sources operating in the DFW 1997 8-hour ozone nonattainment area. EPA is approving these two actions pursuant to section 110 of the Act.

III. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this

action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994);
- Does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law; and
- Is not a “major rule” as defined by 5 U.S.C. 804(2) under the Congressional Review Act, 5 U.S.C. 801 *et seq.*, added by the Small Business Regulatory Enforcement Fairness Act of 1996. A major rule cannot take effect until 60 days after it is published in the **Federal Register**.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2) of the Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 19, 2013.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS — Texas

2. The table in § 52.2270(c) entitled “EPA-Approved Regulations in the Texas SIP” is amended as follows:

a. By revising the entry for Section 117.403;

b. By revising the entry for Section 117.2110.

The revisions read as follows:

§ 52.2270 Identification of plan.

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(c) * * *

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State Citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
* * * * *				
Chapter 117 -- Control of Air Pollution from Nitrogen Compounds				
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Subchapter B -- Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas				
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State Citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
Division 4 -- Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources				
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Section 117.403	Exemptions.	2/2/2010	[Insert date of FR publication] [Insert FR page number where document begins]	
* * * * *				
Subchapter D -- Combustion Control at Minor Sources in Ozone Nonattainment Areas				
* * * * *				
Division 2 -- Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Minor Sources				
* * * * *				
Section 117.2110	Emission Specifications for Eight-Hour Attainment Demonstration.	5/18/2011	[Insert date of FR publication] [Insert FR page number where document begins]	
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[FR Doc. 2013-10561 Filed 05/03/2013 at 8:45 am; Publication Date: 05/06/2013]